



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

Ref: 8MO

JUL 13 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Julia Doney, President
Fort Belknap Indian Community Council
RR1 Box 66
Harlem, MT 59526

RE: Fort Belknap Indian Community and Prairie
Mountain Utilities Administrative Order,
Pursuant to Section 7003 of RCRA

Dear President Doney:

Enclosed please find a copy of the administrative order ("Order") the U.S. Environmental Protection Agency ("EPA") is issuing today to the Fort Belknap Indian Community ("FBIC") and Prairie Mountain Utilities. The Order is issued under the authority of Section 7003 of the Solid Waste Disposal Act, as amended ("RCRA"), 42 U.S.C. § 7003.

EPA has determined that the Tribes' handling of solid waste at the Fort Belknap Agency, Hays and Lodge Pole container sites on the Fort Belknap Indian Reservation presents an imminent and substantial endangerment. The Order requires that certain actions be taken by the FBIC and Prairie Mountain Utilities to abate the identified endangerment. As detailed in the Order, FBIC and Prairie Mountain Utilities must remove all waste from the container sites, dispose of it at a licensed solid waste facility, and verify that contaminants from the removed waste have not affected underlying soils and ground water. In addition, FBIC and Prairie Mountain Utilities must develop and implement a sustainable plan to prevent a recurrence of open dumping and open burning at the container sites.

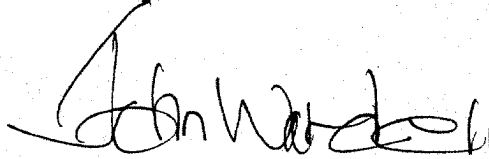
EPA recommends that you pay particular attention to the following sections of the Order: Section VII (Work to be Performed); Section XIII (Opportunity to Confer); Section XIV (Notice of Intent to Comply), and Section XV (Effective Date). Each of these sections provides details on certain time-critical elements of the Order.



Printed on Recycled Paper

If you have any questions or would like to set up the offered conference, please feel free to call me at (406) 457-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "John Wardell". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John F. Wardell, Director
Montana Office

Enclosure

cc: Scott Snow, Prairie Mountain Utilities, Route 1, Box 91, Harlem, MT 59526
Ina Nez Perce, Fort Belknap Tribes
Richard Oppen, DEQ

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2005 JUL 13 AM 11:43

FILED
EPA REGION VII
HEARING CLERK

IN THE MATTER OF:

The Fort Belknap Indian Community
and Prairie Mountain Utilities
Route 1, Box 66 and 91
Harlem, MT 59526

Respondent.

) Docket No. **RCRA-08-2005-0002**
)
)

) **ADMINISTRATIVE ORDER**
)
)

) Proceeding Under § 7003 of the
) Solid Waste Disposal Act,
) as amended, 42 U.S.C. § 6973

I. JURISDICTION

1. This Administrative Order ("Order") is issued by the United States Environmental Protection Agency Region 8 ("EPA") pursuant to section 7003(a) of the Solid Waste Disposal Act, as amended by and hereafter referred to as the Resource Conservation and Recovery Act and subsequent amendments ("RCRA" or "the Act"), 42 U.S.C. § 6973(a). EPA maintains sole jurisdiction to implement and regulate the RCRA program within the exterior boundaries of the Fort Belknap Indian Reservation ("Reservation").

2. Based upon evidence received, EPA has determined that the storage, transfer, or disposal of solid waste at the Fort Belknap container sites, located respectively in Hays, Fort Belknap Agency and Lodge Pole, Montana, may present an imminent and substantial endangerment to human health or the environment.

3. EPA has notified the Fort Belknap Indian Community Council ("FBICC") of this action in lieu of section 7003(a) of RCRA, 42 U.S.C. § 6973(a). The FBICC is the official governing body of the Gros Ventre and Assiniboine Tribes who comprise the Fort Belknap Indian Community ("FBIC").

4. EPA hereby takes this action pursuant to section 7003 of RCRA, 42 U.S.C. § 6973(a), having determined that the issuance of this Order is necessary to protect health or the environment.

II. PARTIES BOUND

5. The Fort Belknap Indian Community ("FBI C") of the Fort Belknap Indian Reservation, a self-governing, federally-recognized tribal government comprised of the Assiniboine and Gros Ventre Tribes, owns three solid waste container site facilities located at Fort Belknap Agency, Hays, and Lodge Pole, Montana (collectively referred to as "tribal facility" or "container sites"), within the exterior boundaries of the Reservation.

6. Prairie Mountain Utilities ("Utilities") is a tribally-owned entity responsible for providing solid waste disposal, drinking water and waste water treatment services to the communities located within the exterior boundaries of the Reservation. Utilities operates the container sites on behalf of the FBIC.

7. This Order shall apply to and be binding upon the FBIC and Utilities (hereafter referred to collectively as "Respondents") and their respective officers, directors, employees, agents, contractors, successors and assigns.

8. No change in ownership, corporate, or partnership status relating to the tribal facility described in this Order will in any way alter the status or responsibility of Respondents under this Order. Any conveyance by Respondents of title, easement, or other interest in the facility described herein, or a portion of such interest, shall not affect Respondents' respective obligations under this Order. Liability shall be joint and several for any failure to carry out all activities required by this Order, irrespective of its use of employees, agents, contractors, or consultants that perform any such tasks.

9. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Order within seven (7) calendar days of the date of Respondents' receipt of this Order or date of such retention and shall condition all such contracts on compliance with terms of this Order.

10. Any documents transferring ownership and/or operations of the tribal facility described herein from Respondents to a successor-in-interest shall include written notice of this Order. In addition, Respondents shall, no less than thirty (30) days prior to transfer of ownership or operation of the facility, provide written notice of this Order to its successor-in-interest, and written notice of said transfer of ownership and/or operation to EPA.

III. FACILITY DESCRIPTION

11. The Fort Belknap Agency container site is located two hundred feet due north of U.S. Highway 2, just off the junction of Montana Highway 66 and U.S. Highway 2. The container site was constructed in 1993. The site is located immediately east of the community of Fort Belknap Agency which includes residences, a hospital, Head Start and other community facilities. The Milk River is located within ½ mile north of the site. The Milk River Valley is underlain by recent alluvium from the Milk River. Ground water in the area is obtained from alluvial and glacial deposits and from sand lenses of the Judith River Formation, which contributes water to the alluvium. Ground water was measured in wells located approximately ½ mile to the west of the site at a depth of approximately 6-8 feet below ground surface.

12. The Hays container site, constructed in 1994, is located 1.5 miles southeast of the junction of Montana Highway 66 and Tribal Route 11, approximately 2 miles north of the Hays Community. The first bedrock geologic unit underlying the site is the Eagle Sandstone. Test borings installed in the area by the U.S. Geological Survey (USGS) in 1988 encountered water in the Eagle Sandstone at depths below 61 feet below ground surface. Water levels in wells completed in these borings range from 1.73 to 24.39 feet below ground surface. Surface drainage from the site runs toward People's Creek approximately ¾ mile west of the site via intermittent drainages..

13. The Lodge Pole container site is located two miles north of the community of Lodgepole and the junction of Tribal Route 11 and Tribal Route 8. The site was constructed in

1994. Glacial deposits of gravel, clay and sand underlie the site to a depth of 123 feet below ground surface. In 1987, a 73 foot-deep well was installed by the USGS well in the vicinity of the site. The static water level in the well was 22.55 feet below ground surface. Intermittent streams drain the area, discharging to Lodge Pole Creek, approximately 1.25 miles southwest of the site.

IV. FINDINGS OF FACTS

Ownership and Operation:

14. The container sites are owned by the FBIC and located on tribal trust land in the communities of Fort Belknap Agency, Hays, and Lodge Pole, Montana, within the exterior boundaries of the Reservation.

15. Respondent Utilities provides solid waste management services on behalf of the FBIC for the collection and disposal of garbage on the Reservation. Utilities collects solid waste from residential and commercial units within the exterior boundaries of the Reservation and from the container sites, and arranges for its transfer to the Unified Disposal District Landfill ("landfill") located off-reservation.

16. Members of the Fort Belknap Indian Community dispose of their household waste, including household hazardous waste, at the container sites. Businesses, institutions and governmental agencies, also dispose of their solid waste in the container sites. Utilities routinely has disposed of solid waste on the ground surrounding the container sites when the container sites were full and the FBIC were in payment arrears to the landfill.

Complaints Concerning Potential Threat to Health and Environment:

17. March 1994, EPA received and responded to a written complaint from a nearby resident regarding open burning, dead animals and shooting at the Hays dump site (future location of the Hays container site). The resident was concerned about health effects caused by the open burning because she had only one lung and her husband was on oxygen.

18. May 2003, EPA received a complaint from the Blaine County Sanitarian regarding open burning of solid waste at the Fort Belknap Agency container site.

19. May 2003, EPA employees witnessed large piles of uncovered municipal solid waste, much of it previously burned, at the Fort Belknap Agency, Hays and Lodge Pole container sites. EPA employees observed the Hays container site to be on fire during a tour of the tribal facility, at which time they informed the Utilities Director that the situation constituted illegal open dumping and open burning, and requested that the fire be extinguished immediately. The fire was put out the following day. EPA discussed with the Utilities Director and Tribal Sanitarian the serious concerns associated with open burning which can release dioxins and other carcinogens into the air in addition to particulates. At the time of EPA's site visit, the FBIC's garbage truck was not operational because the FBIC had not paid the fuel supplier.

20. June 2003, EPA staff learned from Indian Health Services ("IHS") that elderly residents living near the Hays container site had complained in the past about open burning. EPA also received a call from the Hill County Sanitarian saying that the FBIC had not paid their bill from Unified Disposal and had not sent any waste to the landfill in six weeks, raising concerns about where the waste had gone instead. EPA contacted Mr. Kirby King, Utilities Director, who confirmed that the waste in question had been hauled by the FBIC to the Hays container site and someone set it on fire. The FBIC were able to pay the bill at Unified Disposal and resumed the transfer of new solid waste to the landfill. The large wastepiles at the container sites remained.

21. August 2003, EPA received a complaint forwarded from the Montana Department of Environmental Quality about open dumping at the Hays and Lodgepole container sites.

22. September 2003, EPA received a call that there was a fire at the Fort Belknap Agency container site on September 18, 2003. The caller was told the fire was set by a tribal employee. Tribal and county sanitarians were notified. EPA staff contacted the Utilities Director who indicated the fire would take a month to cool down.

23. Between September 2003 and March 2004, there were three reported fires at the container sites. The amount of uncovered municipal solid waste grew and the sites overflowed with solid waste during this period. The uncovered waste encouraged disease carriers. These circumstances posed a potential health threat to nearby residents and pose an environmental threat of harm to ground water, nearby surface water, air and soil.

24. May 2004, EPA received reports of open burning at the Fort Belknap Agency container site. The Utilities Director indicated that the wind was carrying the smoke toward farm/ranch land and away from residents.

25. June 2004, EPA received a call from the Hill County Sanitarian reporting that the FBIC had not paid their bill at the landfill for the period January through March, 2004, and were precluded from dumping at the landfill for the last month. The waste allegedly was again being collected and dumped at the Hays container site by Utilities.

26. On June 4, 2004, the Utilities Director reported to EPA that the Hays container site had been set on fire and generated a "huge wall of smoke." The Fire Department put water on it overnight.

Effects on Human Health or the Environment:

27. Emissions from the uncontrolled burning of solid waste at the container sites may contain particulates and pollutants that pose health hazards to workers and residents. The incomplete combustion and lack of emission controls on open burning at the container sites should produce similar emissions, including the contaminants identified below. Open burning is of particular health concern because it may produce significant quantities of dioxins. Dioxins and "dioxin like" compounds are a group of 30 highly toxic chlorinated organic chemicals. The largest quantified source of dioxin emissions is the uncontrolled burning of household trash. Studies have shown that only small amounts of chlorinated materials in waste are required to support dioxin formation when burning waste.

Much of the dioxins created and released into the air through open burning settle on plants. These plants are, in turn, eaten by meat and dairy animals, which store the dioxins in their fatty tissue. People are exposed to dioxins primarily by eating meat, fish, and dairy products, especially those high in fat. Open burning occurs most commonly in rural farming areas where dioxin emissions can more easily be deposited on animal feed crops and grazing lands. These dioxins then accumulate in the fats of dairy cows, beef, poultry, and swine, making human consumption of these harmful chemicals difficult to avoid.

Dioxins are classified as persistent, bioaccumulative, and toxic pollutants (PBTs). PBTs are highly toxic, long-lasting substances that can build up in the food chain to levels that are harmful to human and ecosystem health. Persistent means they remain in the environment for extended periods of time. Bioaccumulative means their concentration levels increase as they move up the food chain. As a consequence, animals at the top of the food chain (such as humans) tend to have the highest dioxin concentrations in their bodies.

Dioxins are potent toxicants with the potential to produce a broad spectrum of adverse effects in humans. Dioxins can alter the fundamental growth and development of cells in ways that have the potential to lead to many kinds of impacts. These include adverse effects upon reproduction and development, suppression of the immune system, disruption of hormonal systems, and cancer.

Particle Pollution: Particle pollution, also referred to as particulate matter, or PM, refers to microscopic particles released by open burning. Particles that are small enough to get into the lungs (those less than or equal to 10 μm in diameter) can cause numerous health problems. Particles can aggravate respiratory conditions such as asthma and bronchitis, and have been associated with cardiac arrhythmia (heartbeat irregularities) and heart attacks. People with heart or lung disease, the elderly, and children are at highest risk from exposure to particles.

Polycyclic Aromatic Hydrocarbons: Polycyclic aromatic hydrocarbons, or PAHs, are a group of chemicals commonly found in particulate matter (or smoke and soot) released from open burning. They are formed from the incomplete combustion of certain materials. Some PAHs are carcinogenic, or cancer-causing.

Volatile Organic Compounds: People in the immediate vicinity of a burn site are also exposed to high levels of volatile organic compounds (VOCs) produced by open burning. Many VOCs are harmful to humans. They also contribute to ground-level ozone pollution, also known as smog which can worsen respiratory, heart, and other existing health problems. Inhaling certain VOCs can lead to eye, nose, and throat irritation; headache; loss of coordination; nausea; and damage to liver, kidney, and central nervous system.

Carbon Monoxide: Another major pollutant generated by open burning is carbon monoxide (CO). At low levels of exposure to CO, humans may experience a variety of neurological symptoms including headache, fatigue, nausea, and vomiting.

Hexachlorobenzene: Hexachlorobenzene, or HCB, is a highly persistent environmental toxin that degrades slowly in air and, consequently, undergoes long-range atmospheric transport. HCB bioaccumulates in fish, birds, lichens, and animals that feed on fish or lichens. Based on studies conducted on animals, long-term low-level exposures may damage a developing fetus, cause cancer, lead to kidney and liver damage, and cause fatigue and skin irritation. HCB is considered a probable human carcinogen and is toxic by all routes of exposure.

Ash: Open burning also produces ash residue, which can contain toxic metals such as mercury, lead, chromium, and arsenic. These metals can be toxic when ingested. When a person ingests hazardous amounts of lead, for example, he or she may experience high blood pressure, cardiovascular problems, kidney damage, and brain damage. Children playing at a site can incidentally ingest soil containing these metals. Also, rain can wash the ash into groundwater and surface water, contaminating drinking water and food.

28. Explosions, smoke and toxic emissions associated with the fires pose separate and significant threats to human health. The potential emissions from burning hazardous materials are also a concern because of the lack of controls on dumping at the container sites. Chemical containers and aerosol cans have been observed at the container sites.

29. Uncovered waste encourages disease carriers and causes odors, blowing litter and scavenging which can affect the health of nearby residents.

30. Decaying animal carcasses dumped at the containers site also pose serious health threats.

31. The lack of fencing and other security measures at the container sites to prevent public contact with the municipal solid waste pose a significant threat to humans, especially children who may play in and around the container site areas.

32. Open dumping poses a significant threat to the environment, possibly contaminating ground water, nearby surface water sources, air and land.

33. Because the container site areas are unlined and otherwise noncompliant with 40 C.F.R. part 258, no barrier exists to prevent runoff (which may include liquids from garbage, household hazardous wastes and oil) from seeping into underlying ground water sources.

V. CONCLUSIONS OF LAW

34. Pursuant to section 1004(13) of the Act, 42 U.S.C. § 6903(13), "municipality" means, in part, an Indian tribe or authorized tribal organization or Alaska Native village or organization.

35. For purposes of this Order, Respondent FBIC is a "municipality" within the meaning of section 1004(13) of the Act, 42 U.S.C. § 6903(13).

36. Respondent Utilities is a tribally-owned company and a political subdivision of the FBIC.

37. For purposes of this Order, Respondents are "persons" within the meaning of section 1004(15) of the Act, 42 U.S.C. § 6903(15).

38. Respondents have handled "solid waste" at the container sites within the meaning of section 1004(27) of the Act, 42 U.S.C. § 6903(27).

39. Respondents have contributed and/or are contributing to the handling, storage, treatment, transportation or disposal of solid waste at the container sites within the meaning of section 7003 of the Act, 42 U.S.C. § 6973.

40. Respondents' contribution of solid waste to and/or handling of solid waste at the container sites may present an imminent and substantial endangerment to health or the environment within the meaning of SDWA § 7003, 42 U.S.C. § 6973.

VI. ORDER

41. Based on the above and on other information contained in the administrative record for this Order, EPA has determined that the activities required by this Order are necessary to protect health or the environment. EPA, therefore, hereby orders Respondents to perform the work specified in this Order in the manner and by the dates specified herein. All work undertaken pursuant to this Order shall be performed in a manner consistent with this Order, including all documents incorporated herein pursuant to this Order, and all applicable laws.

VII. WORK TO BE PERFORMED

42. Respondents shall properly dispose of the accumulated waste at the container sites, in accordance with the schedule submitted to and approved by EPA pursuant to paragraph 43 below, while not interrupting the receipt and disposal of current waste.

43. Within thirty (30) calendar days of the effective date of this Order, Respondents shall submit for EPA review and approval a schedule to remove all existing and incoming solid waste from the container sites and dispose of the removed solid waste at a licensed solid waste facility. This schedule shall also include sampling to verify that contaminants from the removed

waste have not affected underlying soils and ground water, and construction of a fence and gate at each container site.

44. Respondents shall include in the schedule a date no later than September 30, 2005, by which it will have obtained a commitment of funding to complete the activities referenced below in paragraph 45. Within two weeks of securing the funding, Respondents shall provide EPA with a resolution or other written notification evidencing the commitment.

45. Respondents shall submit with the schedule current estimates for the volume of waste to be removed, the cost to remove and dispose of the waste, the cost to sample and analyze soil and potentially ground water at the sites, and the cost to construct a fence and gate for each container site.

46. Within sixty (60) calendar days of the effective date of this Order, Respondents also shall submit for EPA review and approval a sustainable plan and schedule to prevent a recurrence of open dumping and open burning at the container sites. The plan shall also include a schedule for the development, adoption, and implementation of a solid waste management plan and an updated solid waste code consistent with the requirements of 40 C.F.R. parts 257 and 258, as well as any other resolutions or ordinances needed to ensure that open dumping and open burning of solid waste do not occur. The solid waste management plan to be adopted shall address the cost of providing solid waste management services on the Reservation and identify a combination of Utility fees and other sources of funding to ensure that services, including but not limited to waste hauling, will continue uninterrupted.

47. Concurrently with the completion of clean-up of the container sites, Respondents shall sample soils and potentially ground water at each site to determine whether migration of contamination has occurred and post signs at each site banning the open burning of solid waste and the open dumping of solid waste outside the physical containers. A sampling and analysis plan shall be provided to EPA for approval prior to the commencement of sampling.

48. Within seven (7) days after completing the clean-up at the container sites, Respondents shall obtain a letter from the Fort Belknap Environmental Department certifying that the container sites clean-up has been satisfactorily completed in accordance with this Order. Within one (1) day of obtaining the letter from the Fort Belknap Environmental Department, Respondents shall submit the letter to EPA along with copies of any related disposal receipts.

VIII. ACCESS AND PERMITS

49. Respondents shall provide access at all reasonable times to the facility and to all records and documentation relating to conditions at the facility and the activities conducted pursuant to this Consent Order to EPA and its employees, contractors, agents, consultants, and representatives for the purposes of oversight of and implementation of this Order.

50. Respondents shall use their best efforts to assure that EPA personnel or authorized representatives are allowed access to any contractor utilized by Respondents in implementing this Order.

51. Nothing in this Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including RCRA and the Comprehensive Environmental Response, Compensation and Liability Act.

52. Respondents shall notify the EPA and Tribal Environmental Program representatives identified in paragraphs 57 and 58 in writing at least ten (10) calendar days before engaging in any clean-up activities at the facility. Respondents shall allow EPA or Tribal Environmental Program representatives to be on-site at the time of any clean-up activities.

IX. AVAILABILITY AND RETENTION OF INFORMATION

53. The administrative record supporting this Order shall be available for public review at the EPA Region 8 Montana Operations Office, 10 West 15th Street, Suite 3200, Helena, Montana from 8 a.m. to 5 p.m., every Federal business day.

54. Respondents shall make available to EPA and shall retain, during the pendency of this Order and for a period of three (3) years after its termination, all records and documents in its possession, custody, or control, or in the possession, custody or control of their contractors and subcontractors, which relate to the performance of work under this Order.

55. After the three (3) year period of document retention, Respondents shall notify EPA at least ninety (90) calendar days prior to the destruction of any such documents, and upon request by EPA, shall deliver the documents to EPA.

56. Respondents may assert confidentiality claims pursuant to 40 C.F.R. Part 2.

57. Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the EPA, the public may be given access to such information without further notice to Respondents.

X. NOTICES

58. Respondents shall provide copies of all written proposal and reports or documents required to be submitted under this Order to the following EPA representative:

Stephanie Wallace
U.S. Environmental Protection Agency
Region 8, Montana Office (8MO)
10 West 15th Street, Suite 3200
Helena, MT 59626
(406) 457-5018

59. Respondents must also provide copies of all written proposals and reports or documents required to be submitted under this Order to the following tribal environmental representative:

Ina Nez Perce, Program Manager
Environmental Protection Department
Gros Ventre & Assiniboine Tribes
RR 1, Box 66
Harlem, MT 59526
(406) 353-8429

60. If the date for submission of any item or notification required by this Order falls upon a weekend or federal holiday, the time period for submission of that item or notification is extended to the next federal working day following the weekend or holiday.

XI. RESERVATION OF RIGHTS

61. Nothing in this Order shall limit the information gathering, access, and response authority of the United States under any other applicable law, nor shall it limit the authority of EPA to issue additional orders to Respondents as may be necessary.

62. This Order shall not be construed as a waiver or limitation of any rights, remedies, powers and/or authorities which EPA has under the Act, CERCLA or any other applicable law.

63. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights, remedies, both legal and equitable, which may pertain to Respondents' failure to comply with any applicable laws and regulations and with any of the requirements of this Order, including but not limited to, the right to disapprove of work performed by Respondents, to request that Respondents perform additional tasks, and the right to perform any portion of the work herein.

64. Compliance by Respondents with the terms of this Order shall not relieve Respondent of its obligation to comply with the Act and/or any other applicable State or Federal law or regulation, and any condition of any permit issued under the Act or any other applicable law or regulation.

XII. FAILURE TO COMPLY

65. Pursuant to section 7003(b) of the Act and the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and regulations codified at 40 C.F.R. § 19.4, any failure by Respondents to comply with this Order may subject Respondents to civil penalties of not more than \$6,500 for each day of each failure to comply with this Order at the discretion of EPA.

XIII. OPPORTUNITY TO CONFER AND MODIFICATION

66. Respondents have the opportunity to confer informally with EPA concerning the terms and applicability of this Order. If Respondents desire a conference, Respondents shall contact EPA Region 8 to schedule such a conference within fourteen (14) calendar days of receipt of this Order.

67. If EPA determines that any element of this Order, including work to be performed or schedules, warrants modification after a conference is held, EPA will modify the order in writing, file the modification with the Regional Hearing Clerk and issue a copy to Respondents.

68. Except as otherwise provided in this Order, no modification to this Order shall be effective unless and until it is issued in writing by EPA and filed with the Regional Hearing Clerk.

XIV. NOTICE OF INTENT TO COMPLY

69. Respondents shall provide, within fifteen (15) calendar days of the effective date of this Order, written notice to EPA stating whether Respondents will comply with the terms of the Order. The absence of a response by EPA to the notice required by this paragraph shall not be deemed to be acceptance of any assertions that Respondents may make in their notice(s), and shall not affect Respondents' obligation to implement the Order.

70. Failure of Respondents to provide notification to EPA of intent to comply within this time period shall be deemed a violation of this Order.

XV. EFFECTIVE AND TERMINATION DATES

71. This Order shall become effective on the fifteenth (15) calendar day after the date Respondents receive a copy of the executed order.

72. Modifications made by EPA to this Order are effective on the date such modification is filed with the Regional Hearing Clerk, so long as Respondents are sent a copy by certified mail or has hand delivered to it a copy of the modification as expeditiously as possible after the modification is filed with the Regional Hearing Clerk.

73. This Order shall terminate upon Respondents' receipt of written notice from EPA that Respondents have demonstrated, to the satisfaction of EPA, that the requirements of this Order, including any additional tasks determined by EPA to be required pursuant to this Order, but not including record retention, have been satisfactorily completed.

XVI. SEVERABILITY

74. If any provision or authority of this Order or the application of this Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Order as Modified shall not be affected thereby and shall remain in full force.

IT IS SO ORDERED:

ENVIRONMENTAL PROTECTION AGENCY REGION 8, Complainant.

Date: 7/13/05

By: Michael T. Risner
Michael T. Risner, Director
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Date: 6/22/05

By: John F. Wardell
John F. Wardell, Director
Montana Office

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the attached ADMINISTRATIVE ORDER was hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy of same was sent as follows:

Via hand-delivery to:

Honorable Alfred C. Smith
Regional Judicial Officer
U.S. Environmental Protection Agency
999 18th Street, Suite 300 (8RC)
Denver, CO 80202-2466

Via Certified Mail, Return Receipt Requested, to:

Julia Doney, President
Fort Belknap Indian Community
Route 1, Box 66
Harlem, MT 59526

Scott Snow, Director
Prairie Mountain Utilities
Route 1, Box 91
Harlem, MT 59526

7/13/05
Date

Judith McTernan
Judith McTernan